

287-08/ROSS  
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James L. Ross (JR 6411)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LOUIS DREYFUS CORPORATION,

08-CV. 1899 (DAB)

Plaintiff,

**ANSWER TO VERIFIED  
COMPLAINT WITH  
CROSS-CLAIMS**

-against-

MAERSK FREEMANTLE, her engines, boiler,  
tackle, etc., MS CONTESTE BERND  
BARTELS KG GMBH & CO., BERND  
BARTELS, A.P. MOLLER MAERSK A/S  
(MAERSK LINE), SAFEWAY TRUCKING  
CORPORATION and EAST COAST CES INC.,

Defendants.

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Defendant, A.P. MOLLER – MAERSK A/S (MAERSK LINE), (hereinafter “Maersk”)  
for its Answer to the Verified Verified Complaint of Plaintiff herein, alleges upon information  
and belief as follows:

1. Admits that Plaintiff states that its claim constitutes an admiralty or maritime  
within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and is within the  
admiralty and maritime jurisdiction of this Court, but except as so admitted, denies knowledge or  
information sufficient to form a belief with respect to the remaining allegations contained in  
Paragraph “1” of the Verified Complaint.

2. Denies knowledge or information sufficient to form a belief with respect to the allegations contained in Paragraph "2" of the Verified Complaint.

3. Admits that Defendant Maersk was a charterer of the vessel MAERSK FREEMANTLE, but except as so admitted, denies knowledge or information sufficient to form a belief with respect to the remaining allegations contained in Paragraph "3" of the Verified Complaint.

4. Denies the allegations set forth in Paragraph "4" of the Verified Complaint.

5. Denies knowledge or information sufficient to form a belief with respect to the allegations contained in Paragraph "5" of the Verified Complaint.

6. Denies knowledge or information sufficient to form a belief with respect to the allegations contained in Paragraph "6" of the Verified Complaint.

7. Denies knowledge or information sufficient to form a belief with respect to the allegations contained in Paragraph "7" of the Verified Complaint.

8. Denies the allegations set forth in Paragraph "8" of the Verified Complaint.

9. Denies knowledge or information sufficient to form a belief with respect to the allegations contained in Paragraph "9" of the Verified Complaint.

**FIRST AFFIRMATIVE DEFENSE**

10. The Verified Complaint fails to state a claim or cause of action against the answering Defendant upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

11. This Court lacks subject matter jurisdiction over the present action.

**THIRD AFFIRMATIVE DEFENSE**

12. If the shipment referred to in the Verified Complaint suffered any loss or damage as alleged, which loss or damage is specifically denied, then the said loss or damage occurred as a consequence of negligence and/or breach of contract by Plaintiff, shipper, cargo owner, consignee and/or holder of the said bill(s) of lading and while the goods were in the care, custody, carriage and/or transport of the foregoing agents or contractors acting on their behalf.

**FOURTH AFFIRMATIVE DEFENSE**

13. Plaintiff is not the real party in interest and/or proper party Plaintiff to assert this claim.

**FIFTH AFFIRMATIVE DEFENSE**

14. The shipment described in the Verified Complaint was received, loaded, carried, discharged and/or delivered under and/or subject to the terms, conditions, exceptions and limitations of a certain dock receipt(s), bill(s) of lading, tariff(s), charter(s) and/or contract(s) of affreightment, issued for carriage of the shipment, and by which the shipper, owner, consignee and holders of said bill(s) of lading agreed to be and are bound and subject also to the terms, conditions, limitations and exceptions of the United States Carriage of Goods by Sea Act ("COGSA"), 46 U.S.C. §1300 et seq. (as recodified), and/or the Harter Act 46 U.S.C. §19 et seq., and/or other legislation pertinent to this carriage. If any loss, damage or shortage resulted to the shipment described in the Verified Complaint, which is denied, it was due to a cause or causes for which the answering Defendant is not liable by virtue of the terms of the aforementioned dock receipt(s), bill(s) of lading, tariff(s), charter(s) and/or contract(s) of affreightment and/or the aforementioned legislation.

**SIXTH AFFIRMATIVE DEFENSE**

15. The loss or damage allege in the Verified Complaint occurred at point in time prior to the time the goods were tendered to the answering Defendant or subsequent to the time the subject container was delivered by the Defendant.

**AS AND FOR ITS CROSS-CLAIM AGAINST DEFENDANTS  
MS CONTESTE BERND KG GMBH & CO., BERND BARTELS,  
SAFETY TRUCKING CORPORATION AND EAST COAST CES INC.  
DEFENDANT MAERSK ALLEGES AS FOLLOWS**

16. Defendant Maersk repeats and realleges each and every admission, denial and denial of knowledge or information contained in Paragraphs 1 through 15 of this Answer, with the same force and effect as if herein set forth at length.


17. If there was any loss or damage to the shipment referred to in the Verified Complaint, which is denied, and said loss or damage caused any liability to Defendant Maersk, then the said liability was brought about by Co-Defendants MS Conteste Bernd KG GMBH & Co., Bernd Bartels, Safety Trucking Corporation and East Coast CES Inc. negligence and/or breach of contract and/or breach of warranties, implied or expressed, and by reason thereof, Defendant Maersk is entitled to full indemnity and/or contribution from the aforementioned Co-Defendants, for its loss and damage including reasonable counsel fees and expenses.

**WHEREFORE**, Defendant Maersk prays that the Verified Complaint against it be dismissed and that its Cross-Claim be granted, and that the Court may grant any such other or further relief as may be just and proper.

DATED: New York, New York  
June 17, 2008

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BY:

  
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